

Who is a parent?

# Who is a parent? Parenthood in Islamic ethics

M Kabir, Banu az-Zubair\*

The ethical and legal challenges posed by assisted reproduction techniques are both profound and breathtaking, with most societies unable to fully comprehend one technique before another one, even more daring, emerges. The wrongful implantation of embryos in two women undergoing in vitro fertilisation (IVF) treatments at two separate clinics in the UK seriously vitiates the traditional concept of who is a parent. In one case, a patient's embryos were wrongly implanted into another woman seeking similar treatment, and in the second, a woman's eggs were fertilised using sperm from a man other than her husband.

In the first mix-up, neither member of the recipient couple was the genetic parent of the child, while in the second case, the recipient mother was the genetic mother and her husband was not the genetic father. The mix-ups resulted in litigation to determine who the rightful parents were. First, I will show in this paper that, although the outcome of the application of English law in both cases was in agreement with the outcome prescribed by basic principles of Islamic law and bioethics, that agreement is based on different reasoning in the two traditions. Next, I will show that the profound ethical implications of reproductive technologies begs for a more pluralistic bioethical discourse than the one-dimensional analysis applied by secular Western societies that currently dominates the enquiry, particularly as most Western societies are more or less multicultural and multireligious.

It was once a universally accepted tradition that our parents were the two persons, male and female, whose sex cells formed the basis of our creation. This traditional notion of parenthood persisted even where the responsibilities for raising the child was shared among community members. The biological parents still held sway with respect to the rearing of their children.<sup>1</sup> Parenthood, therefore, is both genetic and gestational, and the two were always assumed and expected to reside with the same two persons, male and

female, from whose sex cells the child was conceived. However, this concept has been subjected to unprecedented assaults due to advances in reproductive technology as well as to the shift in morality and ethics.<sup>2-3</sup> This shift has in some instances been enabled by the advances in technology, and in other instances it has been caused by the influence of modernity characterised by autonomous and individualistic moral and ethical paradigms. Muslims comprise a significant minority in the West and because of their rising numbers and political awareness are becoming increasingly influential. They are also partaking in the social dynamics of Western culture, including the area of reproductive technology. They are, therefore, affected by the growing debate surrounding the implications of the use of reproductive technology. However, unlike the Western traditions, the Islamic ethical rules and laws, which are clear scriptural injunctions, are not so amenable to a paradigm shift unless the general welfare of society is at stake. Even then, the principle of *maslaha*

(considerations of public interest) that may be invoked by jurists (*fuqaha*) to address innovations must not contradict fundamental injunctions of the law.

The advent of and advances in reproductive technology, while reflecting the importance of biological parenthood on the one hand, have diminished the importance of gestation in childbearing on the other. Furthermore, it has seriously undermined our perceptions of who is truly the parent of a child.<sup>4</sup> It used to be taken for granted who a child's parents were and who had claims to its rearing and obligations for its nurture; however, scientific advances have abstracted the genetic and gestational components in childbearing, and added unprecedented complications to what was previously obvious. The attendant complications have rendered the question "who is the parent?" almost meaningless.<sup>5</sup> Perhaps the wrong question is being asked, for parenthood in Islamic ethics is an attribute<sup>6</sup> as well as an inherent quality<sup>7</sup> or qualification,<sup>8</sup> and it is defined not in isolation from the child but is bound to interdependent duties and rights of the parent-child relationship. This is contrary to the situation in the West, where parenthood is regarded mainly as an attribute, rather than an inherent quality.<sup>9</sup> This point is clearly demonstrated in adoption and lesbian parenting, where neither of the adoptive parents needs to have had genetic or gestational investment in the bearing of the child, yet society ethically and legally considers them parents to the child.

Many arguments have been advanced as bases for assigning either paternal or

## Box 1 Specialist terms and vocabulary

### Concepts from the Qur'an

- *al-walad li'l-firash*—child of the matrimonial bed
- *firash*—matrimonial bed
- *fuqaha*—jurists
- *haquq adami*—public/personal rights
- *haquq Allah*—God's rights
- *ibarah al-nass*—literal or explicit meaning of a given text, which is borne out by its words
- *iqrar*—acknowledgement, confession
- *la tabanni fi al-Islam*—adoption is not permissible in Islam
- *maslaha*—consideration of the public interest
- *nasab*—a person's genealogy
- *tarbiyah*—general care and upbringing of a child

### Specialist terms in English

- attribute—a transferable, socially acquired designation as cultural norm
- inherent quality—a non-transferable qualitative designation

maternal rights or as determinants of to whom a child rightly belongs (see Fuscaldo, 2003).<sup>5</sup> There are many factors that are sufficient to make a prima-facie claim to parenthood, but none has been coherently articulated as decisive in case of competing claims. Most of the arguments have failed partly because of the premise upon which they were based and partly because of the inevitable fact that historically and legally, a child's parents could only have been two individuals of the opposite sex.<sup>10</sup> In Islamic bioethics, however, there appears to be little room for confusion as to who has the rights of parenthood in case of competing claims. This lack of ambiguity is mainly because the Qur'an (31:14, 2:233, 46:15) has clearly spelt out who is considered a parent to a child.<sup>6, 7</sup> The conditions for determining paternity are different from those for determining who is the mother. However, in either case, the determination depends on the sort of questions being asked.

One of the most often cited arguments in secular bioethics for determining whom a child rightly belongs to is that of the child's welfare.<sup>11, 12</sup> In Islamic bioethics, the moral question in case of competing claims over a child is not who will best look after the "interests" of the child, but who has the *intrinsic duty* to rear and nurture the child? Put another way, whom does the child have an *intrinsic right* to be reared and nurtured by? This question about the child's intrinsic rights supersedes and is logically prior to the ethical question of who is parent to the child, for parental duty and rights and the child's duty and rights of nurture have been divinely imposed and are not subject to arbitrary determination.<sup>13</sup> Furthermore, because the child is a minor, its rights to legitimacy and to the protection of its genealogy, which are intrinsic and inalienable, must be sought and safeguarded.

## PARENTHOOD IN ISLAM

Parenthood in Islamic bioethics, as stated earlier, is an attribute<sup>6</sup> and an inherent quality<sup>7</sup> in relation to the child. The parent is the person whom the child has an intrinsic and natural right to be reared and nurtured by. Furthermore, the parent also has an intrinsic and natural duty to rear and nurture the child. Parenthood, thus defined, implies that parents and children have rights and duties that are mutual, interdependent and complementary. Because these rights and duties are sacred and have legal implications imposed by Islam,<sup>13</sup> provisions were made that remove ambiguities as to who is a parent. There are four basic principles in Islamic bioethics and law by which

paternity may be established. (1) There must be a valid marriage contract between the mother and father of the child. (2) Jurists consider that the minimum duration from the existence of a valid marriage contract to the birth of the child is 6 months. (3) Attribution is based on the principle that "the child belongs to the bed (where he or she was born)", referred to as *al-walad li'l-firash*—in other words, to the apparent father. (4) Acknowledgement (*iqrar*) by a husband that a child born to his wife is his, even if the child's genetic paternity may be in doubt.<sup>14</sup>

The necessary and sufficient conditions to claim parenthood in Islamic bioethics and law, however, are different for men and women. In addition to the above, a man can claim parenthood and paternity if he is the genetic parent of the child.<sup>8</sup> Nevertheless, the general rule is that "the child belongs to the lawful husband and father, except where there is a competing claim or the husband rejects the child". Further, a child born through sperm foreign to its mother (that is, sperm not from her wedded husband) is illegitimate according to most scholars.<sup>15</sup>

However, a woman is considered a parent on any of three bases, with or without a marriage, all of which have ethical and legal standing in Islam: (1) gestation,<sup>6</sup> (2) fostering with breast feeding<sup>6</sup> or (3) genetically, by ovum donation. The critical aspect of the principles defining parenthood in Islamic bioethics and law is the preservation of the *nasab*, or the child's genealogy. The *nasab*, although it is commonly restricted to the child's paternal descent, must be preserved and protected by the law and the state. Perhaps because Islamic bioethics and law did not contemplate the possibility of the genetic and gestational parentage residing in two different individuals, such as that of the gestational and the foster mother, it makes no explicit distinction in terms of their relation to the child. Thus, the idea of genetic parentage is subsumed by that of the gestational parent, and where there is a distinction, the jurists give priority to the gestational parent, based on the principle of *ibarah al-nass*, or apparent meaning of the relevant verses in the Qur'an. The priority of a claim of parenthood, therefore, descends in order from the woman who gave birth to the child to the woman who breast fed it to the woman with the genetic investment.

Furthermore, no one can claim the right of parenthood by adoption, and the Islamic law does not grant legitimacy of parenthood to adoptive parents. The institution as such, particularly as defined in Western traditions, is not recognised (*la tabanni fi al-Islam*) in Islam, and the

adopted child cannot, as of right, inherit from the adoptive parents, and neither can the parents inherit from the child as they would from their biological progeny. According to the Qur'an, if a child is not the person's real child, it cannot become so merely by virtue of a declaration.<sup>16</sup> Claiming an adopted child as one's own deprives the real heirs of certain rights, such as inheritance, that by right belongs only to them. Furthermore, there is no ethical or legal prohibition in Islam preventing an adoptive parent from marrying an adopted child or the child of an adopted son or daughter. Similarly, there is no prohibition preventing an adopted child from marry the biological son or daughter of the adoptive parents, a situation quite dissimilar to that in Western traditions.

These provisions are not arbitrary; rather, they underscore the significance of the biological relationship between the child and its parents and are based on ethical principles with legal implications that go beyond the rearing and nurturing of the child. Granting legitimacy of parenthood to adoptive parents, therefore, would adulterate the purity of the paternal descent and the genealogy of the child, an essential aspect of the child's social and legal identity. However, there is a possible exception, namely, where the adoptive parents also breast fed the child from infancy, thus becoming parents by fostering; in this case, marriage would be prohibited just as for biological progeny. However, the parents would not inherit from the child and the child would not inherit from them.

## THE RIGHTS OF THE CHILD

First and foremost among the rights of the child is its right to life. This right is sacred and is asserted from the fetal stage, particularly from the start of the second trimester, when the ensoulment of the embryo is presumed to take place.<sup>17</sup> In fact, others argue that ensoulment takes place much earlier, at about 7 weeks post conception. From its right to life, the child derives the rights to affection, protection and care, which must be provided by the parents. The child's right to be supported by the father is enshrined in the Qur'an.<sup>18</sup> Other fundamental rights of the child include the right of filiation, the right of inheritance and the right to receive bequests. In Islamic ethics, therefore, every child has the right to be affiliated to its true parentage, or progenitors, and descendants, from whom it acquires its name, social and legal identity, and most importantly all derivative rights.

The relationship between parents and child is legally, structurally and ethically

complementary. The legal and ethical inditure between them implies mutual obligations of reciprocal rights and duties, including the child's right to know and be associated with its true parents. Because all of the child's rights, including its derivative rights and duties, are based on the biological link to the parents, particularly its paternal parent, the issue of whose sperm or eggs were involved in making an embryo becomes paramount. The child's right of identity with its male progenitors is sacrosanct and fundamental, such that all other rights accruing to the child, besides that of its humanity, are ultimately derived from it.<sup>19</sup> In Islamic ethics, therefore, every child was entitled to a father, and it was to be the one real father, whose paternity, once established, would be irrevocable. This "principle of legitimacy" is so vital that among other sacred rights derived from the identification with progenitors is the requirement that all children must retain their paternal family names, including married females. A deliberate distortion of this ontological nexus between a child and its progenitors is considered a grave injustice in Islam, since this relationship defines the social status of the child and is also essential for its legal status in society.<sup>20</sup> The Qur'an says: "... nor has he made your adopted sons your sons. This is but what you say with your mouths ... And God says the truth and He guides to the right path. *Attribute them to their fathers and call them by their father's name, that is more just in the sight of God. If you do not know their father's names call them your brothers in faith ...*" (italics mine) [Qur'an 33:4-5].<sup>21</sup>

Besides the legal status of the child, but intricately linked to its status in Islamic ethics, are God's rights (*Haquq Allah*) and the public's rights (*Haquq Adami*) vis-à-vis the child's corresponding duties to God and society. The biological link between a child and its parents is foremost among the child's social rights and is therefore vital in Islamic ethics and necessary in Islamic law. In case of any doubt as to the parentage of a foundling, the state has the duty to investigate and unite the foundling with its progenitors.

### THE CHILD'S WELFARE

Assigning child custody and determining the rights and privileges of the disputing parents in marital breakdowns is complicated, with factors such as finance, education and the moral fitness of each parent bearing on the decision. The "welfare of the child" or "the best interests of the child" has become the governing legal standard for determining child custody cases in many countries around the world. In the United States, for instance, all states accept that the

"welfare" or "best interests" of the child should be paramount in custody decisions,<sup>11</sup> and it has been a major factor in determining who ultimately gains custody of the child in many parental custody disputes.<sup>22</sup> This argument purportedly seeks to put the interests of the child first, and it is used as the primary determinant of who should have parental rights to rear and nurture the child.<sup>4,9</sup> According to this standard, the child's best interests supersede the parents' legal rights, thereby shifting the focus of custody disputes from the issue of who has the right to custody to what custody arrangements serve the best interests of the child. Principally, the argument seeks to determine where the child will receive the "best" rearing and nurturing between the disputants.

However, the child's best interests are difficult, if not impossible, to define, and there is no consensus as to what constitutes a child's best interests. The determination of the child's interests and what constitutes its best interests in its nurturing is subjective and is at the judge's discretion, but it is essentially based on the relative economic and social standing of the disputants. Whether the economic and social standing of the disputants are adequate factors on which to solely base such a decision is an open question. This difficulty is compounded if the disputing parties have nothing in common but the child born from an admixture of their gametes. While an argument based on the child's welfare, despite the inherent difficulty in its objective definition, might be appropriate for a custody battle between a married couple, I think it would be misdirected if it were used to resolve a dispute between a genetic and a gestational claim to a child, particularly in the absence of other mitigating circumstances, such as marriage.

Furthermore, I think the argument based on the child's best interests fails for four reasons. First, whose determination of the child's best interests would necessarily be correct, particularly when the disputants come from different cultures? The definition of what is "best" is subjective and arbitrary, since the value of human relationships transcends economic parameters. Second, the argument isolates the rights of the child from those of its progenitors and makes their rights only secondarily relevant. This devalues the parent-child relationship to a one-way affair, and renders the sole purpose of parenthood as just providing the child with the good things of life. Third, it prioritises the child's rights against the parents' duty and rights, by placing the rights of the child before determining the legitimacy of the parental claims.

What needs to be determined primarily, in an IVF mix-up, is the legitimacy of each claim to the child and the child's rights to rearing and nurturing as interdependent and complementary moral and ethical issues, before the issue of custody is addressed. Fourthly, the argument based on the child's best interests is particularly problematic because the relative weights of genetic, gestational and fostering investments in the child have not been clearly determined. There is evidence to support each of the contrary claims<sup>23,24</sup> as being more relevant than the welfare argument: hence the national differences in decisions on such matters.<sup>25</sup>

In Islam, however, the concept of child custody has a different meaning, both in context and in real terms, from its meaning in the West.<sup>26</sup> Custody in the West is assumed to be the complete legal guardianship of a minor, including its upbringing, education and general control and care, such as feeding and clothing. The assignment is usually to the maternal parent, with the father being responsible for the costs of maintenance and little else. In Islamic law, there are three types of custody as applied to minors, which are fixed from birth—that regarding (1) its general care and upbringing, or *tarbiyah*; (2) its education, religious and secular, and (3) the child's property. In the event of a divorce, the first type is generally given to the maternal parent, while the third is the right of the father. The second type is divided between them. The specific details of how the assessment is made as to who gets what are beyond the scope of this paper and is rather more relevant to a marital dispute. In an IVF dispute, however, it is mainly the first and second type that is in contention, and these can be justly determined only in relation to the validity and strength of the parental claims to the child. If the child's welfare were to be a factor, the issue of the genetic or gestational link would first have to be properly resolved, as the resolution of that link is more profoundly bound to the welfare of the child than any economic or social parameter. Even here, it is not the matter of nurture that will be considered, but the overall legal and social implication of the decision to the child's identity and status.

The argument based on the child's welfare, in its narrow Western definition, therefore, is inappropriate for disputes in IVF cases, but it can reasonably resolve a dispute between, for instance, the claims of a divorcing couple when there is no doubt or dispute regarding parentage. In an IVF case, it is unhelpful until the paternal or maternal status of the claimants is legitimately established.



## GENETICS OR GESTATION?

Besides the argument based on the child's welfare, no other serious argument has been offered that is relevant in an IVF dispute than that of the genetic or gestational link to a child. Biology has always been the basis for defining a parent, with gestation and genetics naturally assumed to reside in the two persons considered the parents; it was unthinkable and inconceivable that a third party might be involved, except in an adulterous relationship.<sup>27 28</sup> As previously pointed out, in Islamic bioethics, a man's link to his child is only genetic, while a woman's links can be through genetics, gestation, fostering or all three. Muslim bioethics, therefore, treats competing claims for parenthood between women and men differently.

In Islamic bioethics, three different women can theoretically claim parental rights to a child, depending on whether their link to the child is based on genetics, gestation or fostering; nevertheless, the woman who bore the child is primarily the child's mother. This fundamental principle derives from the Qur'an, which states that "none are your mothers except those who gave you birth ..." (Qur'an, 58:2). That gestation has priority over genetic investment in a child is probably because the possibility of the two residing with two different individuals is inconceivable in Islamic bioethics. Your mothers, says the Qur'an, are those who apparently gave birth to you. Although technology has now made it possible for one person to be the genetic mother and another the gestational mother, Muslim bioethics is on the side of what is apparent—based on the Qur'an, in this case, gestation. When there is a dispute, this ethical rule implicitly gives the surrogate mother the right of parenthood. A woman reacting to the IVF mix-ups in a newspaper, in response to suggestion that the absence of genetic link with the child debars one of the claimants as mother to the child, succinctly captured the Islamic position, when she wrote:

So how can I guarantee that they really are part of my family? Because I gave birth to them, fed them, and I am rearing them to the best of my ability. There is nothing that can make them more our children. If I discovered that, in fact, they were the result of a stranger's egg being accidentally lodged in the pipette that re-implanted my own, it would, of course, cause some heartache. But it would not—could not—make them less mine.<sup>29</sup>

Nevertheless, Islamic bioethics recognises fostering involving breast feeding as an additional aspect of one's genealogy. Furthermore, the relation of the child to its wet nurse or foster mother is socially, ethically and also legally the same as that to its birth mother, as the child is barred from marital relation to any of the wet nurse's natural-born children. The exception is that the child may not inherit from the wet nurse or her children as it would from its biological mother and siblings.<sup>30</sup>

This underscores the insignificance in Islamic bioethics of a genetic contribution without gestation to the concept of motherhood. The underlying reason for this ethical position could be based on two principles. First, the wet nurse and the gestational mother are considered to have made fundamental investments in the very conception and development of the child, such that they can claim priority rights. Second, the proper well-being of the child at its most delicate stage in life is best served by those most intimately involved with its conception and nourishment. In other words, those on whom its needs for physical and emotional growth are dependent are best able to protect its welfare to the highest degree. Furthermore, the breastfeeding foster mother is almost equated with the gestational mother, on the basis of the principle that "whoever breast-feeds is likened with a mother since she is responsible for the gathering of tissues, ie, the combination of the body build-up and skeleton; whereas the mother is responsible for the body build-up in her womb. The wet-nurse provides the baby's nourishment during the first stages of its growth; she is, therefore, a mother after the (gestational) mother and her children are brothers [and sisters] to the children of the gestational mother".<sup>31</sup> It is also common knowledge that bonding between mother and child starts at birth. This bonding is further enhanced during nursing, as the child begins to recognise and acknowledge its "mother".

Genetics, however, play a significant role in paternity, again because of the injunction in the Qur'an. Should there be more than one claimant to a child's paternity, as was customary even in days before the advent of Islam and during the time of the Prophet, and there was no conclusive evidence in favour of any of the claimants, the matter was resolved by consulting expert physiognomists, who determined who was the father of the child. They employed their skills by determining resemblance of features of the child's physical body to those of the claimants (whose faces had been covered). This was because, aside from genetic determination, there is no positive

proof of paternity, whereas the birth and breast feeding of a child are apparent.

This Islamic paradigm is consistent with the position of the UK's Human Fertilisation and Embryology Act 1990, and it is consistent with the judgement handed down by the courts in respect of the cases under discussion.<sup>32</sup> The argument that the quality of nurturing that could be offered to a child is more important than either a genetic or gestational link to the child as a factor is false and is not necessarily in the best interests of the child. The verdict on the case as pronounced by the British Crown Court, in which gestation and genetic investments were considered more relevant than the economic status of the disputants in its determination of who was a parent, is consistent with the Islamic bioethical principles. Custody was, therefore, awarded to the gestational mothers and genetic fathers, with the genetic mother, in the second scenario, having visitation rights. The British court in this instance gave judgement in favour of the gestational mothers as the right maternal parents and the genetic fathers, rather than the husbands of the gestational mothers, as the legitimate fathers. The decision is entirely in agreement with Islamic ethics and Muslim law. What is particularly important, from the point of view of Islamic bioethics and law, is that the child's interests have been protected. The child can inherit from its father and, in fact, legally use the genetic father's name without the rights of the gestational mother to nurture and raise the child being affected. Furthermore, the ruling is consistent with Islamic bioethics and law in that—unlike the case of adultery, where the genetic fathers would have been denied the rights of paternity mainly because of the illicitness of the act—the genetic fathers in these cases were innocent victims of unintentional error, and their rights to paternity were duly restored.

## CONCLUSIONS

Marriage, in Islamic law, is both for procreation and for the sexual enjoyment of the partners. However, the bearing of children is an expected outcome of any marriage, and if there was a problem of conception, it would be acceptable to seek a remedy, particularly as there is no other way of getting children that are truly one's own except by conceiving them. Muslim couples, like other people, have therefore come to welcome the advances in reproductive technology that will enable them fulfil their desires to become parents. The technology has advanced in recent years, so that it provides new hope for young childless couples, and even for postmenopausal women who wish to

bear children but who could not in their productive years have had a chance to bear children of their own.

A problem arises when the innovators of the techniques, who mostly are not guided by religious ethics, nonetheless offer their services to people whose religion, such as Islam, has a strong code of ethics whose implications they themselves may not fully appreciate. Generally, it is after the procedures have been carried out that the public and bioethicists become aware, thereby initiating an avalanche of debate as to their appropriateness.<sup>33</sup> The procedures become more problematic when errors are made in implanting the resulting embryos into their rightful owners, so that ethicists have to deal with the initial issue of the technique and also have to suggest appropriate ways of resolving the complexity of competing claims on the resulting child.

Despite the ethical problems posed by advances in reproductive technology, these advances are a welcome development for childless Muslim couples. Bringing about pregnancy by means other than direct sexual interaction between married partners is not considered an immoral act or interference with the will of God. In fact, Islam encourages what brings happiness to people or would lead to the general well-being of society. The new technologies merely make much more possible a natural phenomenon—that is, conception.

However, the current discourse in bioethics needs to be broadened to include points of views that may be at variance with the Western norm. The cases discussed in this paper are examples of non-Western, religious ethical principle compared with Western ethics, resulting in a similar outcome, yet based on different reasoning. The child in Islamic bioethics always belongs to its birth mother, but not necessarily to the person alleging fatherhood, if he was not the genetic father or because the child's association to the *firash* of its alleged father is questionable. *Firash* in this context implies being both the genetic father and lawfully wedded to the gestational mother. Thus, according to Islamic ethics, a child resulting from an IVF sperm mix-up where sperm other than that of the husband's was used to fertilise a woman's ovum belongs to the mother but not to the woman's husband if he was not the genetic father.

*J Med Ethics* 2007;33:605–609.  
doi: 10.1136/jme.2005.015396

Correspondence to: Dr MK Banu az-Zubair, Federal Ministry of Science & Technology,

Advanced Biotechnology Laboratories, Sheda Science & Technology Complex, Abuja, Nigeria; modibbo@hotmail.com

Received 21 March 2006

Revised 17 November 2006

Accepted 21 November 2006

Competing interests: None

\*Present address: Molecular Biology & Bioinformatics, National Biotechnology Development Agency, Federal Ministry of Science & Technology, 16 Dunkofia Street, PMB 5118, Area 11, Garki, Abuja, Nigeria: azzubair@nabda.gov.ng

## REFERENCES

- Donner WW. Sharing and compassion: fosterage in a Polynesian society. *J Comp Fam Stud* 1999;30:703–30.
- Spriggs M. IVF mix-up: white couple have black babies. *J Med Ethics* 2003;29:65.
- Anon. Embryo mix-up at IVF hospital. BBC News (health section) 28 Oct 02. See <http://news.bbc.co.uk/> (accessed 2 Aug 07) and follow the links for the index.
- Brewaeys A. Review: parent-child relationships and child development in donor insemination families. *Hum Reprod Update* 2001;7:38–46.
- Fuscaldo G. What makes a parent? It's not black or white. *J Med Ethics* 2003;29:66–7.
- The Noble Qur'an 31:14, "...in travail upon travail did his mother bear him, and in years twain was his weaning: hear The Command, 'show gratitude to Me and to your parents, to Me is your final return'"; and, 2:223, "The mothers shall give suck to their offspring for two whole years, if the father desires to complete the term ...".
- The Noble Qur'an 46:15, "In pain did his mother carry him, and in pain did she give birth to him." This verse is clear that it is the mother that carries and gives birth to the child.
- The Noble Qur'an 4:23, in relating those to whom marriage is prohibited to man, clearly points to the genetic link between a father and son when it says, "Prohibited to you for marriage are ... those who have been wives of your sons proceeding from your loins ...." This is to distinguish genetic sons, who proceed from the loins, from adopted or culturally attributed sons, who have no such genetic link with the "father"—a clear indication that it is genetics that link a father to his child.
- Cherlin AJ. Going to extremes: family structure, children's well-being, and social science. *Demography* 1999;36:421–8.
- Charo RA. Biological determinism in legal decisionmaking: the parent trap. *Texas J Women Law* 1994;3:265–307.
- Buehler C, Gerard JM. Divorce law in the United States: a focus on child custody. *Fam Relat* 1995;44:439–58.
- Baetens P, Brewaeys A. Lesbian couples requesting donor insemination: an update of the knowledge with regard to lesbian mother families. *Hum Reprod Update* 2001;7:512–9.
- The Noble Qur'an 6:151, "Say: 'Come, I will rehearse to you that which your Lord has made a sacred duty for you: that you ascribe nothing as partner to Him and that you do good to parents, and that you slay not your children on a plea of want—We provide for you and for them—and you draw not near shameful things whether open or concealed"', and, 17:23–31, "Your Lord has decreed that you worship none but Him, and that you show kindness to your parents ... and, out of kindness lower to them the wing of humility and say, 'Lord, be merciful to them both, just as they cared for me when I was small' ...".
- Qadri AA. *Islamic jurisprudence in the modern world*, 2nd edn. Lahore: Shaikh Muhammad Ashraf, 1981:46–52.
- Ebrahim AF. Biomedical issues—Islamic perspective. Mobei, South Africa: Islamic Medical Association of South Africa. 1988:25–40.
- The Noble Qur'an, 33:4, "Allah has not made for any man two hearts in his one body ... nor has He made your adopted sons your sons. Such is only your utterances with your mouths ...".
- Musallam BF. Conception theory in Muslim thought. In: *Sex and society in Islam*, 1983:39–59. Cambridge: Cambridge University Press. The fundamental question for Islamic law was, at what point in the fetal development does the fetus become a human being? Most jurists believe, based on a tradition of the Prophet, that point to be at the end of the fourth month of pregnancy, when the fetus was ensouled. As a consequence, abortion after that stage is treated as homicide, unless done to save the life of the mother.
- The Noble Qur'an, 2:233, "...But he [the father] shall bear the costs of their [mother and child] food and clothing on equitable terms .... No mother shall be treated unfairly on account of her child ...".
- Roberts R. *The social laws of the Qur'an*. London: Williams and Norgate, 1925.
- Jeffery A. The family in Islam. In: Anshen RN, ed. *The family: its function and destiny*. London: Harper & Bros, 1960:35–80.
- Al-Bukhari M. *Al-Kitab bad' al-khalq*, Vol 5. Cairo: al Makataba al-Islamiyah, 1983:68. Al-Darimi narrated from Abu Hurayrah, that he heard the Prophet, in an emphatic declaration of the importance of attributing a child: to its rightful parents, say that "a woman who misplaces a child's legitimacy by relating its descent to someone who is not responsible for its conception has committed a grave sin, and has alienated herself from God, and will be denied the bliss of eternity. Similarly, a father who obscures his child's 'legitimacy', that is by denying responsibility for its conception, has offended God and inflicted upon himself universal disgrace and forfeited God's grace".
- Maccoby EE. The custody of children of divorcing families: weighing the alternatives. In: Thompson RA, Amato PR, eds. *The post-divorce family: children, parenting, and society*. London: Sage, 1999:51–70.
- Frith L. Gamete donation and anonymity. *Hum Reprod* 2001;16:818–24.
- Hall B. The origin of parental rights. *Public Aff Q*, 1999;13:73–82. A genetic account of parenthood based on self-ownership of genetic material.
- Dyer O. Black twins are born to white parents after infertility treatment [news]. *BMJ*, 2002;325:64. In vitro fertilisation mix-ups have occurred before but not in Britain. In the USA in 1998, a white woman gave birth to one white and one black baby in what became known as the "scrambled eggs" case. After a bitter custody battle, the black couple whose embryo was mistakenly implanted into the white woman won custody of the black baby. In the Netherlands in 1993, a white woman gave birth to one black and one white child after receiving mixed sperm from a poorly sterilised pipette. The biological father of that child did not try to claim his black biological child.
- Chaleby KS. *Forensic psychiatry in Islamic jurisprudence*. Herndon, VA: International Institute of Islamic Thought, 2002:63–76.
- Muehlenberg B. The case for the two-parent family. Melbourne: The Australian Family Association, 2001. <http://www.family.org.au>.
- Muehlenberg B. The historicity and universality of the natural family. Melbourne: The Australian Family Association, 2000. <http://www.family.org.au>.
- Birkett D. IVF errors and questions of race. *The Guardian* 10 Jul 2002. <http://www.guardian.co.uk/Archive/Article/0,4273,4458276,00.html> (accessed 2 Aug 2007).
- The Noble Qur'an, 4:23, "Prohibited to you for marriage are .foster-sisters [or foster-brothers]...".
- Ibn Qudama A. Cairo: Dar Kitab al-Arabi: al-Mughni Sharh Mukhtasar al-Khiraqi. 1983.
- Anon. *Court rules on father of IVF mix-up twins*, BBC News (health section) 23 Feb 03. See <http://www.bbc.co.uk/> (accessed 2 Aug 07) and follow the links for the index.
- Harris J. Assisted reproductive technological blunders (ARTBs). *J Med Ethics* 2003;29:207–8.